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Equal Employment Opportunity Commission v. Phoenix Hotel Associates et al.

Judge Thomas S. Zilly

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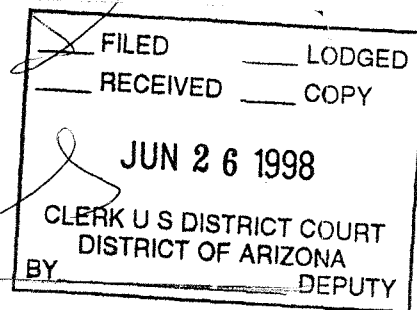
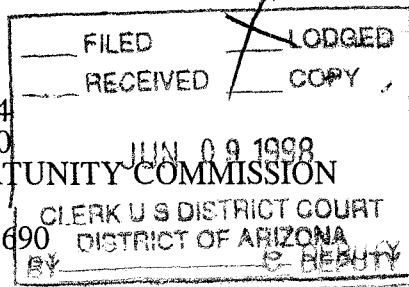
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Equal Employment Opportunity Commission v. Phoenix Hotel Associates et al.

Keywords

Equal Employment Opportunity Commission, E.E.O.C., EEOC, Phoenix Hotel Associates, Greater Capital Hotel Associates, Crowne Plaza Phoenix Hotel, Cliffwood Management Company, Phoenix Hotel Associates LTD, Greater Capital Real Estate Corporation, CIV 97-2220 PHX TSZ, Title VII, Employment Law, Consent Decree, Sex, Female, Sexual Harassment, Constructive discharge, termination, retaliation

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2 KELLY M. HUMPHREY #013880
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
3 Phoenix District Office
3300 North Central Avenue, Suite 690
4 Phoenix, Arizona 85012
Telephone: (602) 640-5029



5 Attorneys for Plaintiff

6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA
10

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12 EQUAL EMPLOYMENT
13 OPPORTUNITY COMMISSION

14 Plaintiff,

15 vs.

16
17 PHOENIX HOTEL ASSOCIATES
18 LIMITED PARTNERSHIP, a California
Limited Partnership dba GREATER
19 CAPITAL HOTEL ASSOCIATES
LIMITED PARTNERSHIP dba CROWNE
20 PLAZA PHOENIX HOTEL;
CLIFFWOOD MANAGEMENT COMPANY, a
21 California corporation; PHOENIX HOTEL
ASSOCIATES, LTD, a Nevada corporation;
22 GREATER CAPITAL REAL ESTATE
CORPORATION, a California corporation,
23

24 Defendants.
25

CIV 97-2220 PHX TSZ
CIV 97-2503 PHX TSZ
(consolidated)

CONSENT DECREE

26 The United States Equal Employment Opportunity Commission (the Commission or
27 EEOC) filed this action against Phoenix Hotel Associates d/b/a Crowne Plaza ("Crowne
28 Plaza") to enforce Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq. (Title

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VII) and the Civil Rights Act of 1991, 42 U.S.C. §1981a. In the complaint the Commission alleged that Crowne Plaza sexually harassed a class of female employees, retaliated against some employees who complained about the sexual harassment, and that as a result of the sexual harassment and retaliation, a class of female employees was constructively discharged and/or terminated from their employment in violation of Title VII.

The parties do not object to the jurisdiction of the Court over this action and waive their rights to a hearing and the entry of findings of fact and conclusions of law. This decree shall constitute neither an admission by defendants to any violation of Title VII, nor an adjudication by this Court on the merits of the allegations in the complaint.

It is hereby **ORDERED, ADJUDGED AND DECREED;**

1. This decree resolves all claims of the Commission against defendant Crowne Plaza, including back pay, compensatory and punitive damages, interest, injunctive relief, and attorney's fees and costs arising out of the issues in this lawsuit.

INJUNCTION

2. Crowne Plaza, and its officers, agents, employees, successors, assigns and all persons in active concert or participation with it, are permanently enjoined for the duration of the decree from (a) discriminating against any employee because of her or his sex, including sexually harassing any employee and (b) retaliating against any employee because he or she (i) opposed discriminatory practices made unlawful by Title VII, (ii) filed a charge or assisting or participating in the filing of a charge of discrimination, or (iii) assisted or participated in an investigation or proceeding brought under Title VII.

MONETARY RELIEF

3. Judgment is entered in favor of the Commission and against Crowne Plaza in the amount of \$479,000.00, representing compensatory damages.

4. The names and addresses of the class members, including Marsha Schmidt, and their respective monetary awards are set forth in a separate document, are incorporated by

1 reference.

2 5. Crowne Plaza shall pay the settlement amount separately to each class member,
3 through her attorney where applicable, by cashier's check or money order, in accordance with
4 paragraph six.

5 6. The checks provided for in paragraph five of this decree shall be made payable to
6 each class member and mailed directly by Crowne Plaza to each class member at their
7 addresses, except those persons represented by Schleier Law Offices, whose checks shall be
8 made payable jointly to Schleier Law Offices, P.C. and the class member, and whose checks
9 shall be mailed to Schleier Law Offices. Within three days of issuance of the checks, Crowne
10 Plaza shall submit a copy of each check and related correspondence to the Regional Attorney,
11 Equal Employment Opportunity Commission, 3300 North Central Avenue, Suite 690,
12 Phoenix, Arizona, 85012.

13 **OTHER RELIEF**

14 7. Crowne Plaza shall expunge from the personnel files of each class member,
15 including Marsha Schmidt, all references to the charges of discrimination filed against
16 defendant or their participation in this action, and all reference to the reasons the employees'
17 were terminated.

18 8. Crowne Plaza shall provide each class member with the written apology attached
19 as Exhibit A, signed and printed on Crowne Plaza letterhead.

20 9. Crowne Plaza shall institute and carry out policies and practices that guarantee a
21 work environment free from sex discrimination, including sexual harassment, of its employees
22 and other individuals, and that allow employees and other individuals to raise concerns or
23 complaints without retaliation about matters, whether alleged, perceived or actual, made
24 unlawful by the Title VII. To assist Crowne Plaza in its effort to guarantee a work
25 environment free of sex discrimination, and retaliation Crowne Plaza shall take the actions
26 provided for in paragraphs ten through twelve.
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2 **DEFENDANT'S CORRECTIVE POLICIES AND PRACTICES**

3 10. Crowne Plaza shall post for the duration of this decree, in a prominent place
4 frequented by its employees at its facility, the notice attached as Exhibit B. The notice shall
5 be the same type, style and size as Exhibit B.

6 11. Crowne Plaza shall provide training on sex discrimination, including sexual
7 harassment and retaliation, according to the following terms:

- 8 A. Crowne Plaza shall retain and pay for a consultant/lecturer who shall provide
9 consultation and training for a period of two years from the date of this decree.
10 During each of the next two years, the consultant/lecturer shall conduct one
11 seminar training session each year. All Crowne Plaza employees shall attend the
12 seminar sessions, including Steve Cohn and the human resources director.
13 Crowne Plaza may at its election have duplicative sessions to accommodate
14 staffing needs. Crowne Plaza shall be responsible for any additional costs to
15 provide such duplicative sessions.
- 16 B. During the first year, 1998, the seminar-training session shall be conducted
17 within four months of the entry of this decree. During the second year, 1999, the
18 seminar-training session shall be conducted between 10 and 13 months after the
19 completion of the preceding session.
- 20 C. The consultant/lecturer shall be a person(s) acceptable to the Commission.
21 Crowne Plaza shall submit the name(s), address(es), telephone number(s), and
22 resume(s) of the proposed consultant/lecturer(s) together with the dates of the
23 proposed seminar and the details of the contents of the training to the Regional
24 Attorney of the Phoenix District Office of the Equal Employment Opportunity
25 Commission within sixty days of the entry of this decree. During 1999, the
26 above information shall be submitted to the Regional Attorney at least ninety days
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1 prior to the seminar-training session. The Commission shall have thirty days
2 from the date of receipt of the information described above to accept or reject the
3 proposed consultant/lecturer and/or the contents of the seminar. In the event the
4 Commission does not approve Crowne Plaza's designated consultant/lecturer, the
5 Commission shall designate the consultant/lecturer at a cost not to exceed
6 \$2,000.00 per seminar-training session which shall be paid by Crowne Plaza.

7 D. The seminar-training sessions shall be no less than two hours of instruction. All
8 personnel, designated in paragraph A shall both register and attend the seminar-
9 training session. The registry of attendance shall be retained by Crowne Plaza
10 for the duration of the decree.

11 E. The seminars shall include the subject of what constitutes sexual harassment; and
12 retaliation; that sexual harassment, and retaliation, in the hiring, firing,
13 compensation, assignment or other terms, conditions or privileges of employment
14 violates Title VII; how to prevent sexual harassment discrimination and
15 retaliation; how to provide a work environment free from sexual harassment and
16 retaliation; and to whom and by what means employees may complain if they feel
17 they have been subjected to sexual harassment or retaliation in the workplace.
18 The session shall also review and explain Crowne Plaza's policies set out in
19 paragraph twelve of this decree.

20 F. During the training sessions, defendant's highest-level manager shall speak to the
21 employees about potential discipline that can be taken against supervisors,
22 managers and employees at Crowne Plaza who commit acts of sex discrimination
23 or retaliation or allow sex discrimination or retaliation to occur in the workplace,
24 the importance of maintaining an environment free of sexual harassment and
25 retaliation, and Crowne Plaza's policy in regard to sexual harassment, and
26 retaliation referred to in paragraph twelve of this decree.
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1 G. The Commission, at its discretion, may designate Commission representatives to
2 attend and participate in the seminar-training sessions, and the representatives
3 shall have the right to attend and fully participate in the session.

4 12. Within thirty days of the entry of this decree, defendant shall institute and/or
5 revise a written policy concerning sexual harassment and retaliation that includes at a
6 minimum the following:

7 A. Employees are encouraged to not discuss sexual conduct and/or sexual jokes
8 except in private consensual conversations;

9 B. No sexually oriented materials shall be brought on the premises of Crowne Plaza;

10 C. Sexual harassment is strictly prohibited and offenders will be subject to
11 discipline, up to and including termination of employment;

12 D. Sexual harassment allegations will be promptly investigated and immediate and
13 appropriate corrective action will be taken;

14 E. Retaliation is strictly prohibited and individuals who complain of sexual
15 harassment or otherwise exercise their rights under Title VII will not be retaliated
16 against in any manner.

17 These policies shall be handed to each current employee within thirty days of the entry
18 of the decree and to all new employees when hired. These policies also shall be posted in a
19 prominent place frequented by the employees.

20 **REPORTING BY DEFENDANT AND ACCESS BY EEOC**

21 13. Crowne Plaza shall report in writing and in affidavit form to the Regional
22 Attorney of the Commission's Phoenix District Office at 3300 N. Central Ave., Suite 690,
23 Phoenix, Arizona 85012, beginning six months from the date of the entry of this decree, and
24 thereafter every six months for the duration of the decree the following information:

25 A. Any changes, modifications, revocations, or revisions to its policies and
26 procedures which concern or affect the subject of sex discrimination, including
27 sexual harassment, and retaliation.
28

1 B. The name, address, position, social security number and telephone number of any
2 employee of Crowne Plaza who has brought allegations of sex discrimination
3 and/or retaliation against Crowne Plaza personnel, formal or informal, including
4 but not limited to management officials, vendors, agents, employees, club
5 members and/or customers, during the six months preceding the report. The
6 nature of the complaint, investigatory efforts made by Crowne Plaza and the
7 corrective action taken, if any, shall be specified.

8 C. The registry of persons attending the seminar required in paragraph eleven of this
9 decree and a list of current personnel employed by Crowne Plaza on the day of
10 the seminar-training session.

11 D. Confirmation that (I) the Notice required in paragraph ten of this decree was
12 posted and the locations where it was posted, (ii) the policies required in
13 paragraph twelve were given to each current and new employee and posted, (iii)
14 the expungements from the class members' personnel files required in paragraph
15 seven of this decree took place, the date of the expungement, and the specific
16 documents expunged.

17 E. A copy of the revised policy required in paragraph twelve.

18 F. A copy of each apology letter mailed pursuant to paragraph eight.

19 14. The Commission, upon reasonable notice, shall have the right to enter and
20 inspect Crowne Plaza's premises to insure compliance with this decree and federal anti-
21 discrimination laws.

22 COSTS AND DURATION

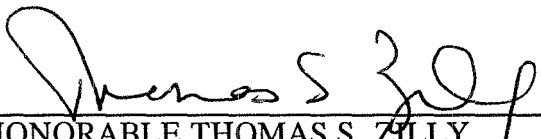
23 15. Each party shall bear its costs and attorney's fees incurred as a result of this
24 action through the filing of this decree.

25 16. The duration of this decree shall be two years from its entry. This Court shall
26 retain jurisdiction of this action for the duration of the decree, during which the Commission
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1 may petition this Court for compliance with this decree. Should the Court determine that
2 defendant has not complied with this decree, appropriate relief, including extension of this
3 decree for such period as may be necessary to remedy its non-compliance, may be ordered.
4 This decree shall expire by its own terms at the end of twenty-four months after entry, without
5 further action by the parties.

6 17. The parties agree to entry of this decree and judgment subject to final approval
7 by the Court.

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9 ENTERED AND ORDERED this 15th day of June, 1998.


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12 HONORABLE THOMAS S. ZILLY
13 UNITED STATES DISTRICT COURT JUDGE
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1 APPROVED AND CONSENTED TO:

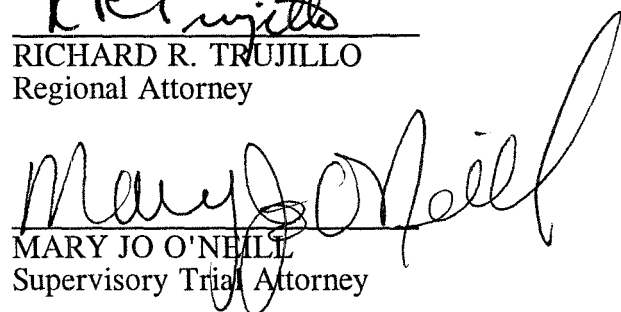
3 C. GREGORY STEWART
General Counsel

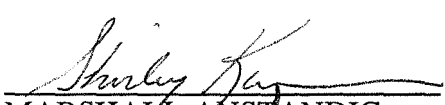
4 GWENDOLYN YOUNG REAMS
Associate General Counsel

6 EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L Street, N.W.
Washington, D.C. 20507

9 
10 RICHARD R. TRUJILLO
Regional Attorney

11 
12 STEVE COHN
13 Managing Director,
14 Phoenix Hotel Associates
15 Limited Partnership
d/b/a Crowne Plaza Hotel

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17 MARY JO O'NEILL
Supervisory Trial Attorney

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19 MARSHALL ANSTANDIG
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22 KELLY M. HUMPHREY
Trial Attorney

24 Attorneys for Defendants

25 EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
3300 North Central Ave., Suite 690
Phoenix, Arizona 85012
(602) 640-5029

26 Attorneys for Plaintiff

[CROWNE PLAZA LETTERHEAD]

Dear _____:

As you are aware, a lawsuit was filed against Crowne Plaza alleging sexual harassment and retaliation against female employees of the company.

Please accept my sincere apology, on behalf of Crowne Plaza and its management, for any language or conduct you found offensive or objectionable during your employment with Crowne Plaza. Please accept my commitment that the company will take whatever steps are necessary to ensure that current and future Crowne Plaza employees work in a discrimination and harassment free environment.

If you have had the opportunity to share your displeasure with others, then please feel free to share with them this apology.

Sincerely,

Steve Cohn

EXHIBIT A

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NOTICE TO ALL EMPLOYEES OF CROWNE PLAZA

This Notice is posted pursuant to a Consent Decree entered into between Crowne Plaza and the Equal Employment Opportunity Commission (EEOC).

It is unlawful under the federal law (Title VII of the Civil Rights Act) and state law to discriminate against an employee on the basis of sex, including sexual harassment, in the hiring, firing, compensation, assignment, or other terms, and conditions or privileges of employment. Sexual harassment includes unwelcome or offensive sexual advances or touching, requests for sexual favors, or other verbal or physical conduct directed at a person because of his/her sex. It is also unlawful to retaliate against any person because the person protested discriminatory practices or contacted the EEOC.

Crowne Plaza shall not discriminate against any employee on the basis of sex, including sexual harassment, and shall not retaliate against any employee.

If you believe you have been discriminated against by Crowne Plaza, you have the right to seek assistance from:

- (1) EEOC, 3300 North Central Avenue, Suite 690,
Phoenix, Arizona 85012, (602) 640-5000; or
- (2) Arizona Civil Rights Division (ACRD), 1275 W.
Washington, Phoenix, Arizona, 85007, (602) 255-5263.

You have the right to file a charge with the EEOC or ACRD if you believe you are being discriminated against.

No Retaliation Clause. No action may be taken against you by any supervisory or management official of Crowne Plaza for (1) opposing discriminatory practices made unlawful by federal law, (2) filing a charge or assisting or participating in the filing of a charge of discrimination, or (3) assisting or participating in an investigation or proceeding brought under Title VII. Should any such retaliatory actions be taken against you, you should immediately contact the EEOC or the ACRD listed above.

EXHIBIT B